

CATALINA CRUZ Y ELIGIO GUMATAY, DEMANDANTES-APELADOS, CONTRA DOMINGA AVILA, DEMANDADA-APELANTE.

G.R. No. L-72. February 14, 1946

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PABLO, M.:

Se trata de una apelacion interpuesta por la demandada contra la decision dictada por el Juzgado de Primera Instancia de Manila, confirmando la del Juzgado Municipal.

Los demandantes presentaron su demanda en el Juzgado Municipal de Manila el 27 de Marzo de 1945, pidiendo que se condene a la demandada a desalojar los altos de la casa en la calle Blumentritt No. 83, Manila, pagar a los demandantes la suma de P60.00 por alquileres correspondientes a los meses de Febrero y Marzo de 1945, con sus intereses legales, mas los alquileres que vencieren en adelante a razon de P30.00 al mes, con las costas.

La Ciudad de Manila ha sido liberada de la ocupacion enemiga en 10 de Marzo de 1945, segun Proclama No. 6 del Presidente de la Mancomunidad (41 Of. Gaz. 76); la orden Ejecutiva No. 25 (41 Of. Gaz. 49), tal como esta enmendada por la orden Ejecutiva No. 32, dice lo siguiente.

"Enforcement of payment of all debts and other monetary obligations payable within the Philippines, except debts and other monetary obligations entered into in any area after declaration by Presidential Proclamation that such area has been freed from enemy occupation and control, is temporarily suspended pending action by the Commonwealth Government." (Official Gazette, Vol. 41, pp. 56-57).

De acuerdo con esta orden, los demandantes no podian exigir el pago de los alquileres vencidos hasta el 10 de Marzo de 1945, sino los correspondientes al dia 11 de ditcho mes y siguientes.

A falta de convenio sobre la fecha en que debe hacerse el pago de los alquileres mensuales de la finca, los demandantes deben cobrarlos dentro de los primeros diez dias del mes siguiente, de acuerdo con el art. 8, Regla 72 del Reglamento de los Tribunales. Solamente pueden exigir los demandantes el pago del alquiler correspondiente al mes que comienza en 11 de Marzo hasta el 10 de Abril, 1945, dentro de los diez primeros dias del mes siguiente. La demanda se presento en Marzo 27, 1945. Es prematura, pues, la presentacion de la accion.

Con revocacion de la sentencia apelada, se sobresee la demanda con las costas contra los demandantes.

Moran, Pres., Paras, Jaranilla, Feria, and Briones, JJ., concur.

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